

REMARKS

Claims 21, 22, 24-28, 30, 37, 38, and 40-46 are pending in the current application, claims 29, 31-36, and 39 having been canceled and claim 46 having been added by the current amendment. Applicants thank the Examiner for allowing claim 38 and indicating claims 31-34, 36 and 37 would be allowable if rewritten in independent format. Claims 21, 22, 24-28, 30 and 40-45 stand rejected and applicants respectfully request reconsideration and allowance of the claims in view of the following remarks.

Claims 21, 37 and 40 have been amended by the current amendment. Claims 21 has been amended to include the limitations of claim 31. Claim 37 was rewritten in independent format including all the limitations of the base claim. Claim 37 was indicated to be allowable if rewritten in independent format including all the limitations of the base claim. Thus, claim 37 should now be allowable and the Examiner is respectfully requested to make such indication.

Claim 40 has been rewritten in independent format to include the limitations of claim 39 and claim 21 except that "wherein the stable hydrophobic nitroxyl radicals are selectively adsorbed onto a solid adsorbent exhibiting hydrophobicity" was changed to "wherein the stable nitroxyl radicals are hydrophobic."

Claim Objections

Claim 39 stands objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. This objection has been rendered moot as claim 39 has been canceled.

Claim Rejections - §112

Claims 29 and 35 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection has been rendered moot as claims 29 and 35 have been canceled.

Claims 39-42 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is respectfully traversed.

Claim 39 has been canceled. However, claim 40 has been rewritten in independent format to include the limitations of claim 39 and claim 21 except that "wherein the stable hydrophobic nitroxyl radicals are selectively adsorbed onto a solid adsorbent exhibiting hydrophobicity" was changed to "wherein the stable nitroxyl radicals are hydrophobic." Thus, the solid adsorbent limitation has been removed.

Further, claims 40-42 are patentable over the prior art because the prior art does not disclose the claimed method with the claimed organic solvents.

Accordingly, the rejection of claims 40-42 under 35 U.S.C. § 112, second paragraph, as being indefinite, should be withdrawn and an indication of allowability is respectfully requested.

Claim Rejections - §102(e)

Claims 21, 22, 24-28, 30 and 43-45 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,335,464 to *Ochi et al.* This rejection is respectfully traversed.

As described above, claim 21 has been amended to include the limitations of claim 31, which the Examiner has been indicated to be allowable. Claim 21 now includes the limitation that the solid adsorbent is a silica gel. As the Examiner

admits, such use of silica gel as the solid adsorbent is not taught or reasonably suggested in *Ochi et al.*

Claims 22, 24-28, 30 and 43-45 depend from claim 21.

Accordingly, applicants respectfully request that the rejection of claims 21, 22, 24-28, 30 and 43-45 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,335,464 to *Ochi et al.*, be withdrawn.

New Claim 46

New claim 46 has been added by the present amendment. Claim 46 is a version of claim 37 written in independent form, except that "wherein the stable hydrophobic nitroxyl radicals are selectively adsorbed onto a solid adsorbent exhibiting hydrophobicity" was changed to "wherein the stable nitroxyl radicals are hydrophobic." Support for the claim can be found throughout the specification. The method of claim 37 is patentable over the prior art. Specifically, the method is patentable over *Ochi et al.* because *Ochi et al.* does not teach or suggest the use of β -cyclodextrin or separating nitroxyl radicals by hydrophobic interaction in a precipitation step.

IDS – Initialed 1449

Applicants note that U.S. Patent No. 5,817,806 is crossed out on the PTO-1449 copy received with the previous Office Action of March 3, 2004. Previously, in the Amendment of July 2, 2004, applicants submitted a further copy of the patent and a copy of the previously-submitted PTO-1449 and respectfully requested that the enclosed PTO-1449 be initialed as to this document and returned to applicants. Applicants respectfully repeat this request, resubmit herewith a copy of the patent and a copy of the previously-submitted PTO-1449, and ask that an initialed copy of the previously submitted PTO-1449 be returned to applicants.

In view of the foregoing, further and favorable consideration of the subject application in the form of a Notice of Allowance is respectfully requested.

If there are any questions concerning this response, or the application in general, the Examiner is respectfully requested to telephone applicant's undersigned representative so that prosecution may be expedited.

Respectfully submitted,
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